

ESTTA Tracking number: **ESTTA627687**

Filing date: **09/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Mr.JohnJ.Manzone
Granted to Date of previous extension	09/17/2014
Address	265 South Ocean Avenue Islip, NY 11751 UNITED STATES

Name	Pretty Woman, LLC		
Entity	LLC	Citizenship	New York
Address	265 South Ocean Avenue Islip, NY 11751 UNITED STATES		

Attorney information	Jonathan C. Sullivan, Esq. Ruskin Moscou Faltischek, P.C. 1425 RXR Plaza, 15th Floor, East Tower Uniondale, NY 11556 UNITED STATES jsullivan@rmfpc.com
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Applicant Information

Application No	86134351	Publication date	05/20/2014
Opposition Filing Date	09/17/2014	Opposition Period Ends	09/17/2014
Applicant	Keys, Jaclyn M 2 Mayberry Lane Mechanicsburg, PA 17050 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 2013/09/22 First Use In Commerce: 2013/10/19

All goods and services in the class are opposed, namely: Cosmetic preparations for nail drying; Cosmetic preparations for removing gel nails, acrylic nails, and nail polish; Cosmetics; Cosmetics and cosmetic preparations; Cosmetics and make-up; Cosmetics in general, including perfumes; Glitter for cosmetic purposes; Nail care kits comprising nail polish; Nail care preparations; Nail enamel; Nail enamels; Nail glitter; Nail grooming products, namely, tips, glue, lacquer and glitter; Nail paint; Nail polish; Nail polish base coat; Nail polish protector in the nature of a thin plastic covering applied to nails; Nail polish top coat; Nail strengtheners; Nail varnish; Nail varnish for cosmetic purposes; Nail varnishes; Non-medicated nail care preparations

Grounds for Opposition

Immoral or scandalous matter	Trademark Act section 2(a)
Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2648569	Application Date	04/09/2001
Registration Date	11/12/2002	Foreign Priority Date	NONE
Word Mark	PRETTY WOMAN		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 003. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Nail and manicure products, namely, artificial fingernails, [nail glue remover; nail treatment preparations, namely, nail strengtheners, nail sealer for use over fingernail polish or bare nails, nail hardener and topcoat;] nail enhancement kits comprised of [adhesive strengthener for applying artificial nails and nail tips, nail polish,] fingernail art and design products for use on fingernails, namely, [foils, glitters, striping tape, water decals,] stickers, [charms, dangles, airbrush stencils; and paints and acrylic sculpturing kits comprised of liquid acrylic nails, acrylic nail powder, primer, nail glue and acrylic nailforms, lipsticks, lip liners and other related products]</p> <p>Class 008. First use: First Use: 1998/09/15 First Use In Commerce: 1998/09/15 Manicure implements, namely, [tweezers, artificial nail cutters, scissors for cutting nails,] fingernail files and buffers, [cuticle pushers, cuticle scissors, cuticle cutters, eyebrow curlers, eyelash curlers,] artificial nail applicator sticks, pedicure files and buffers, [toe nail clippers, sapphire file, slanted nail cutter, manicure and pedicure blocks, artificial nail removal applicator, nail polish remover applicator] and adhesive applicator stick</p>		

Attachments	76237553#TMSN.png(bytes) 0516_001.pdf(228610 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jonathan C. Sullivan/
Name	Jonathan C. Sullivan, Esq.
Date	09/17/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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JOHN JOSEPH MANZIONE and PRETTY WOMAN,
LLC,

Opposition No.:

Opposers,

Mark: PRETTY BITCH NAIL
POLISH WITH ATTITUDE

-against-

Serial No. 86134351

JACLYN M. KEYS D/B/A PRETTY BITCH
POLISH,

Filing Date: December 3, 2013

Published: May 20, 2014

Applicant.

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NOTICE OF OPPOSITION

John Joseph Manzione, an individual residing at 265 South Ocean Avenue, Islip, New York 11751 and Pretty Woman, LLC, a limited liability corporation with offices at 265 South Ocean Avenue, Islip, New York 11751 (“Opposers”), believe they will be damaged by the registration of the mark PRETTY BITCH NAIL POLISH WITH ATTITUDE (“Applicant’s Mark”) shown in application Serial No. 86134351 and filed for “cosmetic preparations for nail drying; cosmetic preparations for removing gel nails, acrylic nails, and nail polish; cosmetics; cosmetics and cosmetic preparations; cosmetics and make-up; cosmetics in general, including perfumes; glitter for cosmetic purposes; nail care kits comprising nail polish; nail care preparations; nail enamel; nail enamels; nail glitter; nail grooming products, namely, tips, glue, lacquer and glitter; nail paint; nail polish; nail polish base coat; nail polish protector in the nature of a thin plastic covering applied to nails; nail polish top coat; nail strengtheners; nail varnish; nail varnish for cosmetic purposes; nail varnishes; non-medicated nail care preparations” (“Applicant’s Goods”) in International Class 3 by Jaclyn M. Keys d/b/a Pretty Bitch Polish (“Applicant”) on December 3, 2013 and hereby oppose said application.

The grounds for opposition are as follows:

1. U.S. application serial no. 86134351 was filed on December 3, 2013 by Applicant (the "Application").
2. Upon information and belief, Applicant is an individual residing at 2 Mayberry Lane, Mechanicsburg, Pennsylvania 17050.
3. The Applicant's Application covers the trademark PRETTY BITCH NAIL POLISH WITH ATTITUDE for Applicant's Goods.
4. Applicant's Application was published for opposition on May 20, 2014.
5. Opposer John Joseph Manzione filed and the Trademark Trial and Appeal Board approved a thirty (30) day extension of time to oppose the Application until July 19, 2014 and a sixty (60) day extension of time to oppose until September 17, 2014.¹ This Notice of Opposition is timely filed.
6. On or about June 4, 2008, Opposers John Joseph Manzione and Pretty Woman, LLC entered into a license agreement with Uptown Wink, LLC in which Uptown Wink, LLC granted Opposers the exclusive right and license (the "PRETTY WOMAN License") to utilize the mark PRETTY WOMAN in connection with the following goods:

Nail and manicure products, namely, artificial fingernails, nail glue remover; nail treatment preparations, namely, nail strengtheners, nail sealer for use over fingernail polish or bare nails, nail hardener and topcoat; nail enhancement kits comprised of adhesive strengthener for applying artificial nails and nail tips, nail polish, fingernail art and design products for use on fingernails, namely, foils, glitters, striping tape, water decals, stickers, charms, dangles, airbrush stencils; and paints and acrylic sculpturing kits comprised of liquid acrylic nails, acrylic nail powder, primer, nail glue and acrylic nail forms, active manicure implements, namely, tweezers, artificial nail cutters, scissors for cutting nails, fingernail files and buffers, cuticle pushers, cuticle scissors, cuticle cutters,

¹ Opposer Pretty Woman, LLC joins in this application because John Joseph Manzione and Pretty Woman, LLC are the exclusive licensees of the PRETTY WOMAN Mark for the goods set forth in the PRETTY WOMAN License. Mr. Manzione is the sole member of Pretty Woman, LLC and is otherwise in direct privity with Pretty Woman, LLC for the purposes of the above referenced extension.

eyebrow curlers, eyelash curlers, artificial nail applicator sticks, pedicure files and buffers, toe nail clippers, sapphire file, slanted nail cutter, manicure and pedicure blocks, artificial nail removal applicator, nail polish remover applicator and adhesive applicator stick.

7. Uptown Wink, LLC owns U.S. Registration No. 2648569 for PRETTY WOMAN (the “PRETTY WOMAN Mark”) in connection with the following goods:

Class 3: Nail and manicure products, namely, artificial fingernails, nail enhancement kits comprised of fingernail art and design products for use on fingernails, namely, stickers; and

Class 8: Manicure implements, namely, fingernail files and buffers, artificial nail applicator sticks, pedicure files and buffers, and adhesive applicator stick.

(the “PRETTY WOMAN Registration”).

8. The PRETTY WOMAN Registration has not been canceled, is valid, and is now in full force and effect.

9. The PRETTY WOMAN License has not been terminated, is valid, and is now in full force and effect.

10. Opposers have successfully utilized and exploited the PRETTY WOMAN Mark for nail and manicure products and implements for more than five (5) years achieving substantial commercial success and causing customers and the general public to associate quality goods and services with the PRETTY WOMAN Mark.

11. Opposers have extensively advertised and promoted the PRETTY WOMAN Mark and made substantial sales of products under said mark.

12. The PRETTY WOMAN Mark is distinctive and widely understood to signify the nail and manicure products and implements sold by Opposers.

13. Applicant’s claimed date of first use of Applicant’s Mark is October 19, 2013.

14. Opposers' use of the PRETTY WOMAN Mark predates Applicant's use of Applicant's Mark by more than five (5) years.

15. Opposers have priority of use over Applicant based on Opposers' prior long standing use of the PRETTY WOMAN Mark.

16. Applicant's Mark is similar in sight, sound, connotation and commercial impression to the PRETTY WOMAN Mark.

17. Applicant's goods are similar and related to the goods marketed and sold by Opposers.

18. Applicant's use and registration of Applicant's Mark is likely to and will cause confusion in the marketplace among purchasers and potential purchasers due to the similarity between the PRETTY WOMAN Mark and Applicant's Mark, and the closely related nature of the goods provided by the respective parties, causing damage to Opposers.

19. Applicant's use and registration of Applicant's Mark is likely to and will cause confusion in the marketplace or cause mistake or deception in the trade among purchasers and potential purchasers, causing damage to Opposers.

20. Applicant's use and registration of Applicant's Mark is likely to and will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are those of Opposers, or are otherwise endorsed, sponsored, licensed or controlled by Opposers, causing damage to Opposers.

21. Opposers have been and will continue to be damaged by the continued use and registration of Applicant's Mark.

22. Consumers that encounter Applicant's Mark will recognize Applicant's Mark as pointing uniquely and unmistakably to the PRETTY WOMAN Mark used by Opposers as exclusive licensees.

23. Applicant's use and registration of Applicant's Mark will create a false and misleading connection to Opposers in violation of § 2 of the Lanham Act, 15 U.S.C. § 1052(a), resulting in irreparable harm to Opposers.

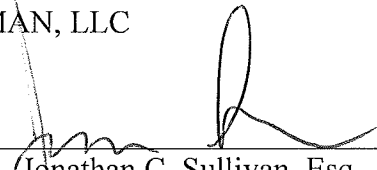
24. Applicant's registration should also be denied because it contains immoral or scandalous matter under § 2 of the Lanham Act, 15 U.S.C. § 1052(a), in particular to the extent it features the prominent term "bitch" juxtaposed with the image of a woman's face.

WHEREFORE, Opposers respectfully requests that this opposition be sustained and that U.S. Trademark Application Serial No. 86134351 be refused registration, and for such other relief as may be proper.

Dated: September 17, 2014

Respectfully submitted for Opposers

JOHN JOSEPH MANZIONE and PRETTY
WOMAN, LLC

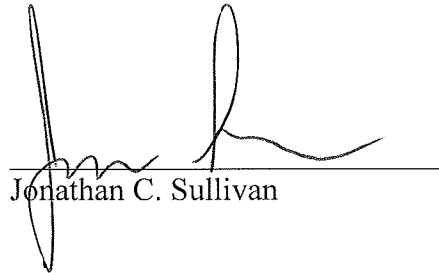
By: 
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RUSKIN MOSCOU FALTISCHEK, P.C.
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Uniondale, New York 11556
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of Opposers' Notice of Opposition dated September 17, 2014, to be served by first class postage prepared mail by depositing the same with the U.S. Postal Service on this the 17th day of September, 2014 to Applicant

Jaclyn M Keys d/b/a Pretty Bitch Polish
2 Mayberry Lane
Mechanicsburg, Pennsylvania 17050

Dated: September 17, 2014
Uniondale, New York


Jonathan C. Sullivan